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KENDRA LEWIS

FILED
JUN 19 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

KENDRA LEWIS,

Plaintiff,

vs.

DIVERSIFIED COLLECTION
SERVICES, INC.; and DOES 1 to 10,
inclusive,

Defendants.

Case No.:

C12-03151 [✓]CS

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(Unlawful Debt Collection Practices)

Demand Does Not Exceed \$10,000

COMPLAINT

INTRODUCTION

1. This is an action for actual and statutory damages brought by plaintiff Kendra Lewis an individual consumer, against defendant Diversified Collection Services, Inc., for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") and the Rosenthal Fair Debt Collection

1 Practices Act, Cal. Civ. Code §§ 1788 *et seq.* (hereinafter “RFDCPA”), which
2 prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

3
4 **VENUE AND JURISDICTION**

5 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), Cal. Civ.
6 Code §§ 1788.30, and 28 U.S.C. § 1331 and § 1337. Venue in this District is
7 proper in that the Defendant transacts business here and the conduct complained of
8 occurred here.

9
10 **PARTIES**

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12 3. Plaintiff, Kendra Lewis Jacobs is a consumer, a natural person
13 allegedly obligated to pay any debt, residing in Dallas County in the state of Texas.

14
15 4. Defendant, Diversified Collection Services, Inc. is a corporation
16 engaged in the business of collecting debt in this state with its principal place of
17 business located in Alameda County at 333 North Canyons Parkway, Suite 100,
18 Livermore, CA 94551. The principal purpose of Defendant is the collection of
19 debts in this state and Defendant regularly attempts to collect debts alleged to be
20 due another.

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23 5. Defendant is engaged in the collection of debts from consumers using
24 the mail and telephone. Defendant regularly attempts to collect consumer debts
25 alleged to be due to another. Defendant is a “debt collector” as defined by the
26 FDCPA, 15 U.S.C. § 1692a(6), and the Cal. Civ. Code § 1788.2.
27
28

FACTS

6. Upon information and belief, within one year prior to the filing of this complaint, Defendant placed collection calls to Plaintiff, seeking and demanding payment for an alleged consumer debt owed under an account number.

7. The debt that Defendant is attempting to collect on is an alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

8. Upon information and belief, Defendant began contacting Plaintiff and placing collection calls to Plaintiff prior to March of 2012.

9. Upon information and belief, within one year of the filing of this complaint, Defendant lied to and made a misleading representation in connection with an attempt to collect on Plaintiff's alleged debt by threatening Plaintiff; telling Plaintiff that Defendant itself would garnish Plaintiff's wages, when only the current creditor could seek to possibly attain such an outcome.

10. Defendant, within one year prior to the filing of this complaint, utilized unfair and unconscionable means to collect on Plaintiff's alleged debt, by lying and making misleading representations in attempt(s) to collect on Plaintiff's alleged debt.

1 11. As a result of the acts alleged above, Plaintiff suffered emotional
2 distress resulting in Plaintiff feeling stressed, and embarrassed, amongst other
3 negative emotions.
4

5 **COUNT I – FDCPA**

6 12. Plaintiff repeats and realleges and incorporates by reference to the
7 foregoing paragraphs.
8

9 13. Defendant violated the FDCPA. Defendant's violations include, but
10 are not limited to, the following:
11

12 (a) Defendant violated §1692f of the FDCPA by using unfair or
13 unconscionable means in connection with the collection of an
14 alleged debt; and
15

16 (b) Defendant violated §1692e(10) of the FDCPA by using false,
17 deceptive, or misleading representation or means in connection
18 with the collection of Plaintiff's alleged debt; and
19

20 (c) Defendant violated §1692e(2)(B) of the FDCPA by falsely
21 representing the services rendered or compensation which may be
22 lawfully received by the Defendant for the collection of the alleged
23 debt.
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15. Plaintiff repeats and realleges and incorporates by reference the foregoing paragraphs.

16. Defendant violated the Rosenthal Fair Debt Collection Practices Act (“RFDCPA”). Defendant’s violations include, but are not limited to the following:

(a) Defendant violated §1788.10(e) of the RFDCPA by threatening to garnish Plaintiff's wages pending the nonpayment of the alleged consumer debt; and

(b) Defendant violated §1788.17 of the RFDCPA by being a debt collector collecting or attempting to collect a consumer debt that is not compliant with the provisions of Sections 1692b to 1692j of the FDCPA, the references to federal codes in this section referring to those codes as they read as of January 1, 2001.

17. Defendant's acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

1 18. As a result of the foregoing violations of the RFDCPA, Defendant is
2 liable to the plaintiff Kendra Lewis for actual damages, statutory damages, and
3 costs and attorney fees.
4

5
6 WHEREFORE, Plaintiff respectfully requests that judgment be entered against
7 defendant Diversified Collection Services, Inc. for the following:
8

9 A. Actual damages.

10 B. Statutory damages pursuant to 15 U.S.C. § 1692k.

11 C. Statutory damages pursuant to Cal. Civ. Code § 1788.30.

12 D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k and
13 Cal. Civ. Code § 1788.30.
14

15 E. For such other and further relief as the Court may deem just and proper.
16
17

18 RESPECTFULLY SUBMITTED,

19 DATED: June 11, 2012

20 PRICE LAW GROUP APC

21 By: 
22

23 G. Thomas Martin, III
24 Attorney for Plaintiff

25 **DEMAND FOR JURY TRIAL**

26 PLEASE TAKE NOTICE that Plaintiff, KENDRA LEWIS demands trial by
27 jury in this action.
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